

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY*In the Matter of*

Amendment of Sections 90.20 and 90.175 of the
Commission's Rules for Frequency Coordination
of Public Safety Frequencies in the Private Land
Mobile Radio Below-470 MHz Band

) WT Docket No. 02-285
) RM-10077
)

**COMMENTS OF
THE SUFFOLK COUNTY, NEW YORK POLICE DEPARTMENT**

The Suffolk County Police Department (SCPD) submits these comments in response to the Commission's Notice of Proposed Rulemaking (NPRM) addressing the Amendment of Sections 90.20 and 90.175 of its Rules for Frequency Coordination of Public Safety Frequencies in the Private Land Mobile Radio Below 470 MHz Band.

Summary

The SCPD supports the proposal of the Association of Public-Safety Communications Officials-International, Inc. (APCO) and urges the Commission to modify the existing frequency coordination procedures for the Public Safety Pool below 470 MHz by expanding competitive frequency coordination. In this proceeding, as in many others, the Commission must choose between incumbents advocating the risks of change associated with a more competitive environment against the benefits of efficiency and effectiveness that will accrue from a more open process. The SCPD believes there is more than adequate record for the Commission to reform the monopoly centered process where applicants and licensees must retain one entity to assist in determining the most

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appropriate frequencies to use. By instituting such reform, the Commission will protect critical public safety systems and maximize the use of the available spectrum, while mitigating the demand for Commission resources posed by the increasingly complex and growing number of applications for these frequencies.

The Suffolk County Police Department

Suffolk County encompasses 1000 square miles of the eastern two-thirds of Long Island, extending **120** miles into the Atlantic Ocean, east from New York City. The distance from the Nassau County border to Montauk Point is **86** miles. At **Suffolk** County's widest point the distance from Long Island Sound to the southern shore is **26** miles. In carrying out its responsibilities, the Suffolk County Police Department has over 3,200 sworn and civilian members serving over **1.4** million citizens and encompasses the full range of law enforcement and public safety responsibilities. The Department covers over 430 miles of coastline and open water. It responds to over one million calls for service per year and is the **14th** largest Police Department in the country.

Suffolk County has committed substantial investment to public safety communications. The critical role these licensed radio frequencies have had in modernizing the SCPD's communications system cannot be overstated. The commitment of radio frequencies by the Commission to public safety communications has been supported support by other federal agencies. The SCPD has received a **\$15-million** grant under the COPS MORE program, which was matched by **\$5** million in County funds. The funding provided for Mobile Data Computers in all of SCPD's marked police units and many unmarked units, LIVE **SCAN** Fingerprinting and Photo Imaging for investigative units, and state-of-the-art integrated records management system tied to the

Computer Aided Dispatch system. The assignment of radio frequencies and subsequent grant monies have resulted in tremendous productivity savings enabling the SCPD's officers to spend significantly less time on paperwork and more time performing police duties. It is these capabilities that the Commission has embraced as bringing technology to benefit the public.¹ The manner by which the Commission administers the spectrum through its frequency coordinator process is critical to the SCPD.

Bringing Competition to the Frequency Coordinator Process Will Enhance the Integrity and Efficiency of Spectrum Administration

The proposal to expand the number of entities permitted to carry out the responsibilities of frequency coordinator must be examined in the context of a history where discrete areas of the spectrum were allocated to particular public safety services and the number of users and complexity of the technologies used were minimal. This circumstance has changed dramatically and present circumstances do not support extending this historically driven process. As the Commission notes in the NPRM, when structuring a coordination process anew, its preference is for a competitive environment in frequency coordination alternatives. SCPD urges the Commission not to abandon the goal of competition and to transition public safety services to where there is a choice in frequency coordination

In 1986, the Commission certified four entities as public safety frequency coordinators for frequencies below 512 MHz. **APCO** was certified as the coordinator in

¹ *In the Matter of the Development of Operational Technical and Spectrum Requirements for Meeting Federal, State, and Local Public Safety Agency Communication Requirements through the Year 2010, First Report and Order and Third Notice of Proposed Rulemaking*, WT Docket 96-98, 14 FCC Rcd 152, 154 (1998), citing the *Final Report of the Public Safety Wireless Advisory Committee to the Federal Communications Commission*, September 11, 1995 at 5.

the Police Radio Service and the Local Government Radio Service. International Association of Fire Chiefs and International Municipal Signal Association (IAFC/IMSA) were certified as the frequency coordinator for the Fire Radio Service. American Association of State Highway Transportation Officials (AASHTO) was certified as the frequency coordinator for the Highway Maintenance Radio Service. Forestry Conservation Communications Association (FCCA) was certified as the coordinator in the Forestry Conservation Radio Service. The Commission selected each on the basis of (a) representativeness of the users of the frequencies to be coordinated; (b) the entity's overall coordination plan (including how recommendations would be made and equality of applicant treatment); (c) the entity's experience coordinating frequencies in the service or technical expertise (e.g., in engineering land mobile radio systems); and (d) nationwide coordination capability (e.g., whether the applicant had a nationwide database of users in the service it proposed to coordinate, and whether the database was automated). The process formalized in 1987 is embedded into an even deeper history.

In 1997, in its *Refarming* proceeding,² the Commission consolidated twenty services below 512 MHz into two pools, Public Safety and Industrial/Business (I/B). The Public Safety Pool below 512 MHz comprises frequencies that were previously allotted to any of the former Public Safety Radio Services and the Special Emergency Radio Service (SERS). The Commission authorized the coordinators of the services consolidated into the Public Safety Pool to manage only frequencies that they were previously responsible for prior to consolidation, with one exception - any of the certified public safety

² *Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignments Policies of the Private Land Mobile Services, Second Report and Order, PR Docket 92-235, 12 FCC Rcd 14307, 14317-18 ¶ 20 (1997)*

frequency coordinators were allowed to coordinate frequencies assigned to the former Local Government Radio Service.

In the Local Government Radio Service, the Commission determined that the introduction of competition among frequency coordinators should promote lower coordination costs and foster better service to the public, i.e., "reduce the time it takes to obtain a coordination, thereby allowing users to get on-the-air quicker." In addition, the Commission required that the public safety coordinators adopt a "notification" system to ensure that applications for the former Local Government Radio Service do not conflict with pending applications.

In response to the APCO proposal, the frequency coordinators with exclusive jurisdiction, AASHTO, FCCA, and LAFC/IMSA, oppose change. They assert that none of the other coordinators understand the special needs of each relevant user community and that no changes to the current system be implemented. Each also essentially argues that other coordinators are unfamiliar with specific local or regional plans that have been developed for each of the different user communities. Concern is reflected that a competitive coordination approach could result in errors and coordination interference, which could jeopardize lives and property. Moreover, the comments reflect a tension between particular coordinators with regard to cooperation and protection of incumbent users.

The practices of the past cannot serve as the premise for the future. The SCPD urges the Commission to embrace the fundamental of ensuring that public safety spectrum is administered with an integrity that protects present users, allows efficient and effective use of the radio spectrum, and provides a parallel efficient and technologically vibrant

administrative process. The present structure encompasses a Commission created monopoly provider, where not only do the consumers – applicants and licensees - have no choice, but inevitably contribute to a system slow to change and more costly to the users who must finance it and the public who depends upon its efficient functioning. The APCO proposal will promote the integrity of the public safety frequency coordination process and instill a new efficiency and effectiveness that will enhance the Commission's ability to administer the spectrum.

All Factors Indicate that a More Competitive Public Safety Communications Process Would Benefit the Public Interest

In the NPRM, the Commission seeks comment on factors indicating whether the transition from the monopoly to the competitive environment can be accomplished consistent with the fundamentals of a public safety communications process --that the system's integrity be preserved, users protected and spectrum used efficiently.

The first inquiry is whether present public safety coordinators are representative of the across the board interests of those agencies using public safety communications. With the history of how public safety frequency coordination evolved, certain organizations have serviced particular public safety constituencies, which have become familiar and accustomed to their work. Yet, there is no premise that another coordinator cannot build a knowledge base that comprehends the varying needs and challenges of the various constituencies that comprise public safety and the differences among them. There is nothing in the record to show that frequency coordination for a particular segment of public safety is so unique and refined that it must remain a monopoly service and that cannot be opened to competitive opportunities.

What is in the record are complaints regarding particular circumstances, where the purported interests of a specific constituency was not served by a particular coordinator or the character of a particular coordinator's membership or leadership.³ These statements fall far short of demonstrating a threat to public safety communications and cannot serve as justification to preserve the Commission created monopoly environment. Assertions that public safety communications have been or will be disrupted or that the reliability of the present private networks are somehow threatened are not supported by credible evidence. At most, these statements indicate that the current structure instills an incentive to serve only one constituency. Moreover, the present system does not offer any real recourse to the applicant or licensee who is dissatisfied with a coordinator's performance. The APCO proposal of providing choice does.

The **NPRM** also inquired whether introducing competition will complicate the coordination process, increase disputes among coordinators, delay implementation of public safety systems, increase the burdens on the Commission, and whether the practices and procedures of discrete public safety plans would be given due consideration. The reality is that the coordination process is complicated; it calls upon the management and technology expertise of each coordinator. Introducing competitive elements will serve to enhance this capability as well as allow the range of practices and procedures of discrete public safety plans to be respected. Claims that competition will spawn confusion, delay and burden limited government resources, while typical of incumbent resistance, have been squarely rejected by the Commission in a range of telecommunications markets. The Commission should adhere to its well established policy of pursuing competition.

³ Comments of the International Association of Fire Chiefs, Inc. and the International Municipal Signal Association, dated April 2, 2001, in response to the APCO petition for rulemaking, RM 10077 at pages 6 & 8.

A Contour Overlap Analysis Will Provide No Benefit

The Commission, as an alternative to competition, seeks comment on expanding present rules in the Industrial/Business (I/B) Pool where an applicant in the I/B Pool may submit its application to the coordinator of its choice for any channel that was previously with a former radio services. The selected coordinator must determine whether the interference contour of a proposed facility overlaps the service contour of any incumbent licensee operating on a frequency that previously was shared by eligible entities in the former industry-specific radio service. If there is a contour overlap, then the coordinator must obtain the written concurrence of the industry-specific coordinator or the written concurrence of the affected licensee.

The overlap proposal will only add costs and confusion to applicants and licensees. It cannot be characterized as a movement to competition. It will dilute accountability of frequency coordinators. The proposal continues the monopoly hold of each of the present coordinators. Instead of paying a coordinator with responsibility, applicants and licensees will pay each of the coordinators a separate fee. Disagreements are unlikely to be resolved. In contrast to the APCO proposal, the overlap proposal will dilute responsibility and accountability and temper the more efficient and effective administration of the spectrum the Commission seeks to stimulate.

The Transition to a Competitive Frequency Coordinator Structure Can Be Accomplished Without Disruption or Harm to Safety of Life Frequencies

Contentions that a competitive frequency coordinator structure will create havoc and confusion among licensees and applicants and create to public safety communications must be rejected. The integrity of public safety communications will be preserved and enhanced

The APCO proposal ensures that core public safety frequencies will not be infringed upon. Each of the present coordinators comprehends clearly the responsibility to ensure that frequencies dedicated to safety of life circumstances must be protected. It is not credible to contend that the fidelity to such a *fundamental* by each of the coordinators will be abandoned or diluted if the coordination process is expanded to those organizations currently entrusted with such responsibility. The APCO proposal will bring increased accountability and responsibility to each coordinator.

The APCO Proposal Provides an Environment that will Deter Warehousing Spectrum and Discriminatory Treatment

In the NPRM, the Commission notes its actions, and concern, with regard to the warehousing of spectrum and discriminatory treatment. Specifically, the Commission has pursued station construction and operational audits of public safety spectrum below 512 MHz. The Commission's pursuit in this regard stems from its obligations under the Communications Act of 1934 to ensure that the spectrum is administered fairly and efficiently. The Commission asks whether retaining exclusive coordination will contribute to warehousing of spectrum to the benefit of a particular constituency. The APCO proposal will promote a more integrated and efficient system of coordination that will provide the Commission expanded capability to supervise administration and provide users more efficient service.

The APCO proposal presents a self-enforcement mechanism among and between frequency coordinators that will guard against spectrum warehousing and discriminatory treatment. It will promote a transparent structure where information is more readily accessible and no longer the province of one coordinator. It will increase significantly the Commission's ability to obtain information regarding licensees and applications. As

the proposal encourages cooperation among coordinators, it will instill an incentive to move to more universal information systems that will parallel and supplement the Commission's efforts to enhance its electronic licensing and information system, the universal licensing system. Isolating the constituencies in public safety from competition in the coordination process detaches the process from needed change and progress and will stifle its ability to confront the challenges.

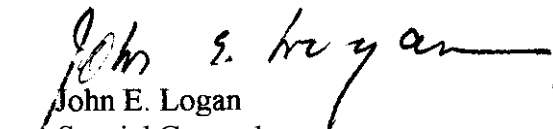
Conclusion

The Commission has an opportunity to enhance the quality by which public safety communications is administered. Allowing competition among frequency coordinators will cause no detriment to public safety and will increase the services to constituent

public safety agencies that will accrue to the benefit of the public. It is resisted by incumbents who fear the changes a competitive environment will entail. The Commission should move expeditiously to bring competition to the frequency coordination process in public safety communications and by doing so will improve tangibly the administration of the spectrum

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Comment was served on this
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